

**Saint Paul Planning Commission
City Hall Conference Center
15 Kellogg Boulevard West**

Minutes May 18, 2012

A meeting of the Planning Commission of the City of Saint Paul was held Friday, May 18, 2012, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. Merrigan, Noecker, Perrus, Reveal, Shively, Wang, Wencl; and Messrs. Connolly, Edgerton, Gelgelu, Lindeke, Nelson, Ochs, Oliver, Spaulding, Ward, and Wickiser.

Commissioners Absent: Mmes. Halverson, *Porter, *Thao, and Mr. *Schertler.
*Excused

Also Present: Donna Drummond, Planning Director; Tom Beach, Department of Safety and Inspections; Patricia James, Allan Torstenson, Luis Pereira, Kate Reilly, Anton Jerve, Eduardo Barrera, and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes May 4, 2012.

Chair Wencl announced that the minutes are not available at this time. However they will be ready for approval at the June 1, 2012 meeting.

II. Chair's Announcements

Chair Wencl had no announcements.

III. Planning Director's Announcements

Donna Drummond announced that the City Council approved a Interim Use Permit for Semple to do rock crushing on the west side. They were given the permit to crush an existing pile of rock on their property during a 60 day time period. Rock crushing will be an issue that is part of the Industrial Zoning Study that will be up for public hearing at the next Planning Commission meeting. The City Council also approved zoning changes resulting from the District 9 Gateway Zoning Study. The Planning Commission had recommended T3 zoning for the properties that are on Grand/Ramsey just off West 7th Street and the City Council gave final approval for T1 zoning.

IV. PUBLIC HEARING: Near East Side Roadmap & Rezoning Study – Item from the Neighborhood Planning Committee. (*Luis Pereira, 651/266-6591*)

Chair Wencl announced that the Saint Paul Planning Commission is holding a public hearing on the Near East Side Roadmap & Rezoning Study. Notice of the public hearing was published in the Pioneer Press on May 2, May 7, and May 14, 2012, and was mailed to the citywide Early

Notification System list and other interested parties.

Luis Pereira, PED staff said the two items for public hearing are related but the Near East Side Roadmap is the plan or the vision for the area with a companion zoning study. The study area follows 7th Street from Maria up to Johnson Parkway and that includes a piece of Minnehaha between Payne and Arcade as well as some property that abuts Phalen Boulevard. In the past there have been a series of plans for this area and the main intent of this process is to think about 7th Street as the organizing geography and develop a cohesive vision for the area.

There were a total of 9 task force meetings over 11 months. There also was a sub-committee that had 9 meetings, and reviewed commercial building conditions along 7th Street. There were two large public meetings, in October 2011 and January 2012 to discuss the property rezonings and also a meeting held in Spanish with Latino business owners in May 2011. The task force created a list of short and long term outcomes that they'd like to see achieved. They did a business inventory, and also reviewed existing planning and development initiatives in the area to determine which of the planning and land use recommendations to carry forward from the previous plans. The task force also looked at public open space and creative place making opportunities along 7th Street. The commercial building sub-committee ended up with a large list of property specific recommendations for implementation. The roadmap is organized into three main sections that address real estate and property, streets and infrastructure, and community and business capacity building. There is a list of implementation items, with partners for implementing and possible funding sources identified. One of the implementation steps is property rezonings, which are detailed on page 25 of the roadmap. The Dayton's Bluff Community Council has developed a small booklet called Make it Happen on East 7th Street, which is the name of the initiative to carry forward a lot of the ideas that are coming out of this work. Copies of the booklet were passed out to the Planning Commissioners.

Chair Wencil read the rules of procedure for the public hearing.

The following people spoke.

1. Richard Gardell with 180 Degrees Incorporated at 1301 East 7th Street spoke about how the rezoning plan impacts them. He asked the Planning Commission to consider modifications to the rezoning recommendation that the task force made for their property. They fit well into the overall goals of the plan. They purchased and moved into their property six months ago with the purchase and decision for development based on the zoning currently in place and do not want the City to change the zoning. Current zoning would allow them to improve and pave a parking area on the corner of 7th and Johnson Parkway. They are planning on using this parking area as a primary place for staff and clients to park when using the 1301 building. However, if the zoning is changed as proposed, they could not use this area for parking. TN2 does not allow parking on a corner lot. It does not allow surface parking when the frontage is more than 50% of the lot. This area is currently being used for parking. However it is not improved and would not be considered an established use. Also, the current zoning would allow them to operate a retail storage service. They believe this is one of the best uses of the existing 30,000 square feet of indoor, unheated, storage that exists on the property. These buildings are in excellent condition and were built for storage of lumber, so they are perfectly designed for storage. They have received information from local residents and businesses that this storage is in demand. They worked with a local realtor to establish a

market price and study of demand. Based on what they know, they estimate they could receive \$70,000 per year in revenue from the storage rental. This amount of money would go toward ongoing maintenance and operation of the property. If the zoning is changed, this use would not be allowed. They considered this source of revenue before they bought the property. It is the best use of the existing buildings. They asked that the zoning not be changed.

Commissioner Connolly asks when Mr. Gardell heard about the potential rezoning.

Mr. Gardell found out about the potential rezoning after he moved in. He thought it was at the January 2012 meeting of the task force.

Commissioner Oliver asked what the timeline was for the development plans Mr. Gardell described.

Mr. Gardell said they have already renovated the building that their offices are in. They are also trying to get a site plan approved to build out the parking lot. This is a long term process and it may be three years before they are done.

2. Lorrie Louder, Director of Business and Governmental Affairs with the Saint Paul Port Authority, stated that the Port Authority supports this plan and recommends that the Planning Commission approve it. The Port will be developing "The Hub," an educational streetscape plaza on the corner of the former Mendota Street and 7th. The Port also will be assisting the brokerage community to determine some next efforts, in terms of the market place and what is consistent with roadmap strategy. They are also supporting efforts to improve streetscape and traffic patterns. They will be providing assistance where appropriate in analyzing and facilitating parking solutions. The Port expects to provide assistance when appropriate as resources may be available, in terms of additional development, and additional land assembly, and they really look forward to working with the City, business community, district council and other interested parties on improvement of the area.
3. Linda Gear is a long time resident at 658 Reaney Avenue and the police substation is her neighbor next to the parking lot. Her house is the only house along with the police substation that is on her block. She does not understand why the City is considering changing her zoning from residential to something else. She plans on living the rest of her life in her current home, so she is really concerned with the rezoning. Ms. Gear asks the City consider not rezoning her block.

Commissioner Perrus clarified that when property is rezoned it does not mean that the property owner has to leave their home. As long as the home owner is living in their home and it is used as a residential use it can remain as a residential use. The reason for the proposed change and the overall goal of rezoning is to determine what is more appropriate for future development. Ms. Gear's property would be protected as a legal nonconforming use and she'd have those rights as long as the property is used as a residential use.

4. Tom Cook is representing Sue Hammersmith, president of Metropolitan State University. Metropolitan State is fully supportive of the Near East Side Roadmap and recommends it

without reservation for Planning Commission approval. The plan before the commission together with related products like the East 7th Street Design Guidelines provide a great framework. They look forward to engaging with the Roadmap as they explore what a vibrant East 7th Street can look like and feel like. Metropolitan State is comfortable with the zoning proposals adjacent to its campus. The university is impressed by the resources and the process that went into developing this plan and they urge the Planning Commission to approve it as a new component of the City of Saint Paul's Comprehensive Plan.

Commissioner Lindeke asked about the way the University, especially on the south side of 7th Street, fits in with the streetscape vision. He feels the existing buildings do not do a very good job of coming up to the street or having any windows or entrances along that part of East 7th. Are there plans in the future to address that?

Mr. Cook said that is included in their revised facilities master plan. West of Maria they inherited the way that the campus was designed by the hospital, so they are limited there. It is under discussion about how they can soften that side of the campus. East of Maria they have a number of projects planned over the long term for what now is a surface parking lot. Those are the conversations he had with the committee leaders as they considered how meeting the needs of Metro. State on that site can fit with a well developed streetscape on East 7th Street.

5. Deanna Foster, Executive Director of Dayton's Bluff District 4 Community Council, said that this plan is a different kind of plan and the district council is committed to making sure that it's a different kind of plan. They are so in support of this plan that they have begun implementation by engaging business owners on 7th Street. They decided to pick a small area because they wanted to demonstrate that this plan as a whole could be implemented in a very effective way. The area is between Metropolitan State University and Beacon Bluff, which are the two anchors, and all the space in between, working with the business and property owners in that area. They have good momentum and a lot of efforts are moving forward on this. They are very happy to have the Near East Side Task Force Roadmap and recommend that the Planning Commission approve it.

Commissioner Oliver asked if she could explain the process and the intent for the façade improvements, since that is a big component of the plan, especially on E. 7th Street.

Ms. Foster said their plan is actually more than façade improvements. Façade improvements are a traditional way to upgrade a corridor. It is very important that the 7th Street business district look appealing and really draw customers. It should enhance people's sense of safety and create a positive reaction, through business activity and facade and streetscape improvements. A lot of buildings are vacant, so they really need to fill those buildings and upgrade the façades at the same time. They're working with all the business owners and property owners and are beginning to talk about working together on parking and other things. She also spoke in favor of the request from 180 Degrees Incorporated to be excluded from the property rezoning proposal because the district council understands what happens to businesses when they make plans based on existing zoning.

6. Sharon Howe was representing the property on Atlantic Street owned by the credit union. She is employed by them and this property has been sold three times. The problem is a parking issue. And it's sad that they have a building and a business and that parking always seems to be the obstacle, between 7th and Phalen Corridor on Atlantic. She just wanted this to be heard.
7. Carol Carey, Executive Director of Historic St. Paul, offered comments in support of the plan. She said that people are really excited about the implementation of this plan and the opportunity it brings to this portion of Dayton's Bluff and the East Side of St. Paul. They look forward to continuing to work within the collaborative framework that's laid out in the roadmap, with the various partners each doing their part to help beautify the buildings and create an attractive streetscape. She echoed Ms. Foster's encouragement to visit some of the businesses. There are a lot of really great things happening and they're looking forward to pulling it all together through this effort.
8. Jane Prince, a resident on Burns Avenue, who served as the community co-chair with Planning Commission Chair Wencil, called this a really effective and productive community process. Despite the weak economy and the history of their neighborhood having been under developed, they feel that they now have a critical mass in their neighborhood of things that make this the right time and the right place to implement what they have put together. Regarding the opposition to the rezonings, she was happy to hear Ms. Foster say that they feel strongly that they don't want to stop the progress of 180 Degree Incorporated.
9. Al Oertwig is president of the Payne/Phalen District 5 Planning Council. He actively participated as a member of the committee and expressed District 5 Planning Council's support for this proposal. The time is right to do this sort of planning and with the 3M redevelopment going on he thinks it's important that they support this kind of planning effort.
10. Todd Landon is a property owner on East 7th Street who had talked to City staff about his property being rezoned to Industrial Restricted (IR). He also talked to some of the neighbors on his block and they are happy with the proposal for being zoned IR. They think it would provide a nice ability for live-work for future business owners. Mr. Landon bought his building to improve it and is interested in a situation where someday he could live above it and perform his business below.
11. Stefan Pomrenke, a resident on Margaret Street close to E. 7th Street, is a family physician who is interested in the built environment of his neighborhood. He is also a bicyclist and thinks that wellness is a part of being a neighborhood and being a community. He likes the implementation steps called for in this plan and wanted to highlight in particular the possibility of an east west bikeway because that would be a vital improvement in the community. As a resident on Margaret Street he thinks that it would be a prime street and wanted to make sure that is a strong point of the whole entire proposal.

MOTION: *Commissioner Oliver moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, May 21, 2012, and to refer the matter back to the Neighborhood Planning Committee for review and recommendation. Commissioner Wickiser seconded the motion. The motion carried unanimously on a voice vote.*

V. Zoning Committee

SITE PLAN REVIEW – List of current applications. *(Tom Beach, 651/266-9086)*

Two items came before the Site Plan Review Committee on Tuesday, May 15, 2012:

- 180 Degrees parking lot, pave and stripe existing gravel parking lot, 1301 East 7th Street (NW corner at Johnson Parkway).
- Plat for Crocus Hill New Addition, a plat to create 13 single-family lots. (Site plan review is required for plats that affect areas with slopes greater than 12%).

Three items to come before the Site Plan Review Committee on Tuesday, May 22, 2012:

- BNSF Midway Hub, phase 5 of on-going paving work for the site. 1701 Pierce Butler Route.
- I AM Temple, tear down existing structure and build a new 3,300 square foot church/temple. 220 N. Mississippi River Blvd.
- Specialized Treatment Services, new 8,000 square foot clinic building. 320 Grove Street.

OLD BUSINESS

#12-037-383 Grand and Finn Student Apartments – Site plan review for a new 20 unit apartment building (five story building with underground parking). 2124 Grand Avenue.
(Tom Beach, 651/266-9086)

Commissioner Nelson said the primary market for the proposed 5-story/50 foot high apartment building, which is permitted under the RM2 zoning, is college students. The architect was charged to design a building that meets all code requirements and would need no variance. The project uses a density bonus for underground parking to get twenty 4-bedroom apartments. The Zoning Committee voted 3-2 to recommend denial of the application.

Commissioner Nelson said that in addition to the basis for denial pertaining to impact on adjacent property in the draft resolution recommended by the committee, he also thinks the site plan does not meet zoning code requirements regarding density, setback and parking standards. He distributed amendments he had prepared to reflect that and strengthen the findings for denial. Commissioner Nelson went over definitions of lot coverage and setback, and explained how these and the standards for parking spaces lead to a finding that the site plan doesn't meet applicable code requirements for building setback and parking.

MOTION: *Commissioner Nelson moved the Zoning Committee's recommendation for denial of the site plan.*

MOTION TO AMEND: *Commissioner Nelson moved to amend the committee's motion, adding findings for denial based on the plan's not meeting applicable code requirements pertaining to density, setback, and parking. Commissioner Noecker seconded the motion.*

Commissioner Reveal said she opposes the motion to deny. She thinks the project complies in all material respects with the requirements of the code. She believes the site plan review process is for review of code compliance, not policy debate.

Commissioner Perrus said she is also opposed to the motion for denial. Site plan review is a technical review process. A lot of case law supports the notion that when a use is permissible as code compliant it is arbitrary for a planning commission or local government to deny the use. She appreciates Commissioner Nelson's additional findings to provide a more defensible basis for denial. But there's also long-standing case law, including Franks Nursery, that if the code is ambiguous it's resolved in favor of the property owner. In this case City zoning administration staff found the site plan to be code compliant and recommended approval. Commissioner Perrus said she does not believe there is a legally defensible basis to deny the site plan.

Commissioner Spaulding said that rather than denial of a site plan it's generally better to impose reasonable conditions and limitations in approving a site plan as necessary to fulfill the spirit and intent of the code and give the developer a path forward. It's better legally and also in the practical sense of providing a developer a chance to address issues and concerns. That said, he does not agree with the basis for denial in the motion. The zoning administrator's interpretation of code requirements pertaining to support column placement, parking space dimensions and setback for the underground parking are reasonable. The additional findings proposed by Commissioner Nelson pertaining to interpretation of these requirements, making the underground parking a basis for denial, is surprising in that one of the best parts of site plan is almost all of the parking is underground, as encouraged by the zoning code and the comprehensive plan.

Commissioner Oliver said he supports the amendment because nonconformance with zoning standards for setbacks, parking and density would be a more legally defensible basis for denial. It's important to understand that this is a permitted use that may be lawfully established provided it conforms with all requirements, regulations and performance standards of the zoning district. In *Chanhassen Estates Residents Association v. Chanhassen*, the Minnesota Supreme Court said that "when a city designates a specific use as permissible in a particular zone or district, the city has exercised its discretion and determined that the permitted use is consistent with public health, safety and general welfare and consistent with the goals of its comprehensive plan. Until the district is rezoned or the zoning ordinance is either amended or successfully challenged, that determination is conclusive." The commission has to tread carefully when considering denial of a permitted use.

Commissioner Ward said he agrees with Commissioners Reveal and Perrus that site plan review decisions need to be based on the established zoning code policies. While he understands the issues and concerns raised by neighbors, they are not enough of a basis for denial. The conditions for approval recommended in the staff report addresses some of the concerns and issues that have been raised. He is in favor of approving the site plan with appropriate conditions.

MOTION: *Commissioner Reveal moved to call the question on the amendment. Commissioner Noecker seconded the motion. The motion to call the question passed on a vote of 13-2 (Nelson, Wickiser).*

VOTE ON MOTION TO AMEND: *The motion to amend passed on a voice vote 14-1 (Ward).*

Commissioner Nelson said that zoning code requirements and standards for setbacks, parking, and lot coverage limit the density a particular parcel of land can support. If this site were 20 feet wider, the parking could be completely underground and the site could support more density. While the site plan is close to meeting the standards, in a plain reading of the zoning code it does not appear to him that the site plan meets the standards.

Commissioner Perrus said she thinks the code is clear in its intent and application of setback, lot coverage and parking space standards to the underground parking. The zoning administrator needs to be consistent in interpretation of the code, and she supports the staff recommendation for approval of the site plan subject to reasonable conditions related to the intent of the code.

Commissioner Merrigan noted that if any underground parking spaces are lost because the final design and engineering of things like the mechanical equipment or columns, then they would need to recalculate lot area bonus and reduce the number of units.

Commissioner Oliver asked staff to address past practice and interpretation of the code with regard to setback of underground garage walls up to two feet above grade and the location of columns in the underground parking lot.

Tom Beach, from the Zoning Administrator's Office in the Department of Safety and Inspections, said he coordinates the City's site plan review process. He used the overhead projector to show a hand-drawn sketch illustrating the grading and landscaping around the edges of the proposed underground parking, its green roof covered with plant material, and stated that it would be low enough to be considered the same as landscaping and not subject to setback or lot coverage requirements. He also explained that the consistent practice is to allow support columns in parking ramps, as well as light poles in parking lots, to be located at the ends of parking spaces near the drive lane where they don't interfere with the drive lane, the parking space or open car doors. The Penfield and Grand-Victoria parking ramps are examples of this. The Penfield has columns in every third space, encroaching about 10 or 12 inches into the space. Light poles in surface parking lots commonly encroach into the parking space a similar amount.

MOTION: *Commissioner Reveal moved to call the question. Commissioner Ward seconded the motion. The motion to call the question passed unanimously on a voice vote.*

VOTE ON MOTION TO DENY: *The motion for denial of the site plan failed on a 3-12 voice vote.*

MOTION: *Commissioner Perrus moved the staff recommendation for approval of the site plan subject to conditions, with the removal of condition #6 in the staff report. Commissioner Reveal seconded the motion.*

Commissioner Perrus explained that condition #6 called for parts of certain fourth and fifth floor windows in the back of the building to be translucent. This would do little to improve privacy and would not be conducive to a good living environment in the apartments.

Commissioner Merrigan proposed a friendly amendment to condition #3, which was accepted, to increase the number of secure bicycle spaces to 24 in the underground parking garage and 36 in the patio area near the front door.

Commissioner Spaulding noted the positive impacts of some additional density proximate to St. Thomas on a transit corridor, something that is part and parcel of our comprehensive plan.

Commissioner Oliver asked if the applicant agreed to the conditions?

Tom Beach said yes, in general, the applicant agrees. He then stated that there might be some problems squeezing in that many bicycle racks, and suggested more flexibility in determining the exact number.

After further discussion about the wording of the amendment to condition #3, it was agreed that it should be *as many secure bicycle parking spaces shall be provided on site as determined to be practical by site plan review staff: at least 12 and up to 24 in the underground parking garage, and at least 12 and up to 36 in the patio area near the front door.*

MOTION: Commissioner Reveal moved to call the question. Commissioner Ochs seconded the motion. The motion to call the question passed unanimously on a voice vote.

VOTE ON MOTION TO APPROVE WITH CONDITIONS: *The motion carried on a vote of 15-1 (Nelson).*

NEW BUSINESS

#12-045-151 Bilal Alsadi – Conditional use permit for auto convenience market. 1200 Rice Street, SE corner at Maryland. (Kate Reilly, 651/266-6618)

Commissioner Nelson moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.

#12-048-444 Church of St. Bernard – Conditional use permit for transitional housing, with modification of number of residents to permit 12 adults and their minor children. 197 Geranium Avenue West, NE corner at Woodbridge. (Luis Pereira, 651/266-6591)

Commissioner Ward asked if the total number of beds/occupants that is allowed for this particular district in transitional housing is known.

Patricia James reported that she did not have that information with her.

Commissioner Merrigan provided information from the staff report that, in this case of a 12 person residential housing facility, the planning district concentration would go from 0.22% to 0.27% and leave a balance of 185 beds available in the district.

Commissioner Nelson said that the maximum is 1%. Patricia James added that District 6 is well under 1% at this point.

Commissioner Nelson said that the applicant agreed to one condition limiting the type of transitional housing to refugees.

Ms. James explained that, rather than add it as a condition, the resolution clarifies that their conditional use permit is for transitional housing for refugees.

Commissioner Nelson moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.

#12-048-445 Wings Financial Credit Union – Conditional use permit to increase the surface parking maximum, and variance of the requirement that surface parking and entrance drives occupy no more than 50% of the street frontage. 1798 7th Street West, between Elway and Montreal. (Kate Reilly, 651/266-6618)

Commissioner Noecker noted that the request to increase the parking maximum requires a certain amount of documentation from the applicant, and if they can show need, then it's allowed. She wondered if there should be a future discussion about whether the Commission could at some point say the maximum can't be exceeded any further, even with justification.

Donna Drummond, Planning Director, explained that both the Transportation Committee and Zoning Committee had discussed these guidelines and the intent with the maximum was that businesses could exceed it if they could truly demonstrate that they needed that additional parking. Individual cases can vary quite a bit and to establish a set number that applies in every case may be unreasonable.

Commissioner Reveal stated that she doesn't see any reason why anything in the guidelines couldn't be reconsidered, because these are new guidelines and they are still learning.

Commissioner Spaulding responded that the Transportation Committee looked at this as they developed the checklist. He thinks it would be hard to set an upper limit on a conditional use permit because it is so evidence-based. There is enough in code as well as in their guidelines to help reduce the parking when it's truly out of line.

Commissioner Nelson moved the Zoning Committee's recommendation to approve the conditional use permit and variance subject to additional conditions. The motion carried unanimously on a voice vote.

#12-048-442 Volunteers of America – Minnesota – Conditional use permit for a Department of Corrections-licensed community residential facility with modification to permit up to 74 adult residents. 1394 Jackson Street, between Arlington and Hyacinth. (Luis Pereira, 651/266-6591)

Commissioner Nelson announced that this case has been laid over to the May 24, 2012 Zoning Committee meeting.

Commissioner Nelson announced the items on the agenda for the next Zoning Committee meeting on Thursday, May 24, 2012.

VI. Comprehensive Planning Committee

Commissioner Merrigan announced that the committee had met on May 15th to discuss Neighborhood STAR applications and the Commission's role in advising the STAR board on those that comply with the Comprehensive Plan. The committee's recommendations will be forwarded to the full Commission on June 1, and then the Planning Commission's comments will be forwarded to the STAR Board. Also, the Comprehensive Planning Committee will not be meeting next week as there are no agenda items.

VII. Neighborhood Planning Committee

Commissioner Oliver announced the items on the agenda for the next Neighborhood Committee meeting on Wednesday, May 23, 2012.

VIII. Transportation Committee

Commissioner Spaulding announced the items on the agenda for the next Transportation Committee meeting on Monday, May 21, 2012.

IX. Communications Committee

No report.

X. Task Force/Liaison Reports

None.

XI. Old Business

None.

XII. New Business

None.

XIII. Adjournment

Meeting adjourned at 10:42 a.m.

Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

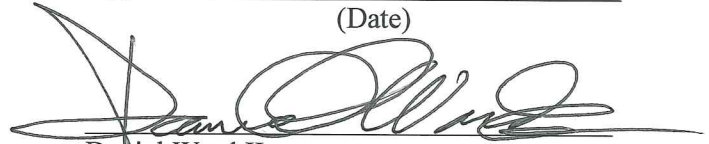
Respectfully submitted,



Donna Drummond
Planning Director

Approved June 15, 2012

(Date)



Daniel Ward II
Secretary of the Planning Commission

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